

Kerala Gazette No. 19 dated 16th October 2012.

PART II



SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 4877/Legn. 1/2012/Leg. *Dated, Thiruvananthapuram, 16th October 2012.*

The Kerala Revenue Recovery (Amendment) Bill, 2012 together with the Statement of Object and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

P. K. MURALEEDHARAN,
Secretary-in-charge,
Legislative Assembly.

**Thirteenth Kerala Legislative Assembly
Bill No. 141**

THE KERALA REVENUE RECOVERY (AMENDMENT) BILL, 2012

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BILL

further to amend the Kerala Revenue Recovery Act, 1968.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Revenue Recovery Act, 1968 for the purposes hereinafter appearing;

BE it enacted in the Sixty-third Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Revenue Recovery (Amendment) Act, 2012.

(2) It shall be deemed to have come into force on the 22nd day of July, 1997.

2. *Amendment of section 2.*—In section 2 of the Kerala Revenue Recovery Act, 1968 (15 of 1968), (hereinafter referred to as the principal Act), after clause (b), the following clause shall be inserted, namely:—

“(ba) “collection charges” mean the charges payable to the Government by a defaulter, at such rate as may be prescribed, towards the recovery and collection of an arrear of public revenue due on land;”.

3. *Amendment of the section 5.*—In section 5 of the Principal Act,—

(a) The existing provision shall be numbered as sub-section (1) of that section and in sub-section (1) as so numbered, in the opening sentence, for the words “and cost of process”, the words “cost of process and collection charges” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(2) It shall be competent for the Government to realise collection charges for the recovery of arrears and notwithstanding the mode of recovery specified in sub-section (1), in the case of collection charges payable in respect

of collection of arrears on behalf of any institution notified under section 71 or on behalf of any other statutory body or institution to which the provisions of this Act is applicable, the same may be collected from such institution or statutory body in advance at such rates as may be prescribed, which shall be refunded to such statutory body or institutions, as the case may be, as soon as it is recovered from the defaulters”.

4. *Amendment of the section 71.*—In section 71 of the Principal Act, in the proviso, after the words “collection charges”, the words “in advance” shall be inserted.

5. *Amendment of the section 77.*—In section 77 of the Principal Act, after the words and figure “batta mentioned in section 76” the words “and collection charges” shall be inserted.

6. *Validation.*—Notwithstanding anything contained in any judgement, decree or order of any court or authority, the collection charges recovered from a defaulter or any institution notified under section 71 of the principal Act or from a statutory body or institution, in respect of recovery of arrears of public revenue due on land collected on behalf of such institution or statutory body or Government between the period on and from the date of commencement of this Act till the date of publication of this Act in the official Gazette shall be deemed to have been validly collected under the provisions of the principal Act as amended by this Act as if it could have been collected under the principal Act if the same were in force during the said period as amended by this Act and no suit or legal proceedings in respect of legality of the recovery of such collection charges or claiming refund or adjustment of such amount shall be maintainable before any civil court or any authority.

STATEMENT OF OBJECTS AND REASONS

In the proviso to section 71 of the Kerala Revenue Recovery Act, 1968 (15 of 1968) it is provided that the institutions or class or classes of institutions or autonomous bodies notified by the Government shall be liable to pay collection charges at the rate prescribed by the Government. As such, it has been so provided in rule 4 and in sub-rule (2) of rule 5 of Kerala Revenue Recovery Rules, 1982. However, demand for realising the said collection charges has been challenged before the Honourable High Court in a number of Writ Petitions and the Honourable High Court set aside such a demand of collection charges as it is illegal. More over, in Baskaran Vs. Tahsildar [2005(1) KLT 151] the Honourable High Court held that collection charges shall be recoverable

only if amounts are collected by the revenue authorities through revenue recovery proceedings and if the payment is made directly to the requisitioning authority, no collection charge is leviable. The situation creates huge loss to the exchequer of the Government by way of expenses incurred for the process of revenue recovery proceedings. Hence, in order to provide more clarification on the subject, the Government have decided to incorporate specific enabling provision in the Act for the realization of collection charges, even in advance from the requisitioning authorities, by defining the term collection charges and making consequential amendments in section 5, 71 and 77 of the Act along with a validation clause for validating the recovery of collection charges already made.

2. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The new clause proposed to be inserted as clause (ba) to section 2 of the Kerala Revenue Recovery Act, 1968 (15 of 1968) by clause 2 and new sub-section proposed to be inserted as sub-section (2) of section 5 of the said Act by sub clause (b) of clause 3 of the Bill seeks to empower the Government to prescribe the rate of collection charges payable to the Government by the defaulter and the requisitioning authority in advance, respectively.

The matters in respect of which rules may be made are matters of procedure and are of routine or administrative in nature. Further, the Rules after they are made are subject to the scrutiny by the Legislative Assembly. The delegation of legislative power is, thus, of a normal character.

ADDOOR PRAKASH.